

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

KATRINA DANIELLE MATEEN

PLAINTIFF

VS

CIVIL ACTION NO.: 1:23-cv-00306-TBM-RPM

CITY OF GULFPORT, No. 1., is being sued in their (sic) official capacity  
As the governing body for the City of Gulfport, Mississippi, located at  
2309 15<sup>th</sup> Street, in Gulfport, Mississippi 39501 for protecting then  
Officer/but now Sergeant Kenneth Nassar who shot and killed Jaheim  
McMillan, on October 6, 2022, at the Family Dollar Store, located at  
1016 Pass Road, in Gulfport, Mississippi 39501

AND

KENNETH NASSAR, No. 2, is being sued in his individual capacity  
As Officer/but now Sergeant and was at all time relevant to these  
Proceedings was employed by the Gulfport Police Department,  
Located at 2220 15<sup>th</sup> Street, in Gulfport, Mississippi, 39501, while  
Working under the color of state law at the time the Defendant shot  
And killed Jaheim McMillan, on October 6, 2022, at the Family Dollar  
Store, located at 1016 Pass Road, in Gulfport, Mississippi 39501

DEFENDANTS

**CITY OF GULFPORT, MISSISSIPPI'S MOTION TO DISMISS  
PURSUANT TO FED. R. CIV. P. 12 OR FED. R. CIV. P. 56**

COMES NOW the City of Gulfport, Mississippi ("City"), identified as a Defendant in the  
above cause, by and through undersigned counsel and, without waiving any objection, response,  
immunity, or defense it may have to the "Complaint," be they affirmative or otherwise, files this  
its "Motion to Dismiss Pursuant to FED. R. CIV. P. 12 Or FED. R. CIV. P. 56" and would show as  
follows, to-wit:<sup>1</sup>

---

<sup>1</sup>The instant Motion is pursued without waiving or limiting any defense, objection, right,  
or immunity available to or conferred upon the movant under the Federal Rules of Civil  
Procedure, including, without limitation, Rules 4, 8, 9, 12, 13, 14, 17, and 19, as well as any set

## I.

Plaintiff, Katrina Mateen (“Plaintiff”) filed her purported “Complaint” with the Circuit Court of Harrison County, Mississippi, First Judicial District on October 4, 2023. Plaintiff identified the City of Gulfport, Mississippi (“City”) as a Defendant therein. The “Complaint” purports to assert that violations of the “Fourth Amendment” to the United States Constitution occurred involving the City due to “excessive force” and an “illegal search and seizure.” See e.g., Pl.’s Compl., p. 8 (¶ 7) (Exhibit “A”). Plaintiff’s “Complaint” also asserts state law claims against the City for “assault and battery,” “intentional infliction of emotional distress,” criminal “manslaughter,” and for negligent “training.” See id., pp. 5, 7-9. On the basis of “federal question” jurisdiction, the City filed a “Notice of Removal” [Doc. 1] with the instant Court on October 4, 2023.

## II.

Plaintiff has failed to adequately assert her purported federal law claims against the City, and the same have no legal merit. Alternatively, since there are no genuine issues of fact in connection with same, the City is entitled to a summary judgment in accordance with FED. R. CIV. P. 56, and the Complaint is required to be dismissed with prejudice. Plaintiff’s purported state law claims against the City are equally without merit and have no legal basis.

Consequently, Plaintiff’s “Complaint” must be dismissed.

---

forth in or afforded as a result of any local, state, and/or federal statutory or decisional law or constitution (*e.g.*, lack of standing, lack of legal capacity, lack of subject matter jurisdiction, sovereign immunity, etc.). The movant also herein adopts and incorporates all arguments, contentions, and authorities asserted in its accompanying Memorandum of Authorities in support of this Motion and in any rebuttal or memoranda submitted in support thereof.

III.

In support of its Motion and for the convenience of the Court, the City has attached and submits the following:

EXHIBIT “A”: Plaintiff’s Complaint [Doc. 1]; and

EXHIBIT “B”: Grand Jury Partial Report.

WHEREFORE, the City of Gulfport, Mississippi, which reserves all objections, responses, immunities, and defenses, affirmative or otherwise, that it may have to the “Complaint” [Doc. 1] and any and all proper amended versions thereof, respectfully requests that this Honorable Court issue an Order fully granting its dispositive Motion and dismissing this cause against it with prejudice as well as awarding the movant herein with all costs incurred with pursuing this Motion, as well as granting all other relief, equitable or otherwise, to which it may be entitled.

RESPECTFULLY SUBMITTED, this the 13<sup>th</sup> day of November, 2023.

CITY OF GULFPORT, MISSISSIPPI

By: s/ Jeffrey S. Bruni, Esq..  
JEFFREY S. BRUNI, ESQ.  
Attorney for Movant  
MS Bar License No. 9573

JEFFREY S. BRUNI, ESQ.  
POST OFFICE BOX 1780  
GULFPORT, MISSISSIPPI 39502  
TELEPHONE: (228) 868-5811  
FACSIMILE: (228) 868-5795

**CERTIFICATE OF SERVICE**

I, Jeffrey S. Bruni, Esq., Attorney for the Movant, do hereby certify that I have on this date electronically filed the above and foregoing document with attached exhibits with the Clerk of the Court using the ECF/MEC system, which should send notification of such filing to the Plaintiff, Katrina Mateen, 111 N. Lang Avenue, Long Beach, Mississippi 395060 and to all counsel of record who have made an appearance in this matter.

This the 13<sup>th</sup> day of November, 2023.

s/ Jeffrey S. Bruni

JEFFREY S. BRUNI

JEFFREY S. BRUNI, ESQ.  
POST OFFICE BOX 1780  
GULFPORT, MISSISSIPPI 39502  
TELEPHONE: (228) 868-5811  
FACSIMILE: (228) 868-5795